

13 March 2002

William Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: National UNE Performance Metrics NPRM, CC Docket No. 01-318

Dear Mr. Caton:

On Tuesday, March 12, 2002, the undersigned, on behalf of Covad Communications Company, made an oral *ex parte* presentation to John Stanley, Assistant Chief, Policy Division, Common Carrier Bureau, in the above-referenced docket. The presentation reasserted Covad's strong support for rapid Commission action in adopting national UNE performance metrics and associated penalties. Specifically, Covad highlighted the following points:

- (1) As they have argued in their pleadings in this docket, incumbent LECs will benefit from rapid Commission action in this proceeding. Rapid Commission action in this docket will assist Bell Operating Companies (BOCs) and the Commission in prompt resolution of the dozens of long distance applications that will be submitted in the next year. Specifically, the Commission's adoption of a list of concrete, self-enforcing performance metrics will facilitate the BOC burden of proof on checklist compliance, as well as the Commission's evaluation of such proof. BOCs will know exactly what level of performance they must demonstrate to the Commission, and all parties will know the penalties to which the BOCs will be subject for failure to comply with those performance requirements. In addition, the BOCs and other incumbent telephone companies will have certainty for the first time as to the exact penalties to which the Commission will subject them for failure to comply with their market-opening obligations.
- (2) The Commission cannot preempt state-adopted performance assurance plans, because those plans were adopted by states to meet their specific needs. The Commission can, however, give the states the option of utilizing the federal performance metric and penalty scheme in lieu of state-specific plans. This option will streamline performance metric and penalty plans where states view such streamlining as appropriate.

Respectfully submitted,

/s/ Jason Oxman

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